

Partial Vacation of Unused Section of Cooper Street- Public Benefit

STANDARDS FOR VACATION OF RIGHT OF WAY

All items required for a street vacation have been received by city staff and application has been approved as meeting requirements
In addition:

Utilities Commission has made the determination that there is no utility use for the right of way

City Engineer has determined there are no future projects or proposed improvements for the right of way vacation and has no conflict for the vacation request

City Staff has indicated there is no current proposed use for this un-opened section of Cooper St. right of way other than applicant's proposed public access project.

Right of Way now terminates at State of Florida conservation land. There will never be a road extension of Cooper Street within this Right of Way.



STANDARDS FOR VACATION OF RIGHT OF WAY

Proposed Vacation is in the Interest of the Public Good

Proposed Vacation will maintain a public access easement over most of the vacated right of way to allow access the wetland conservation areas and remainder of Cooper Street right of way.

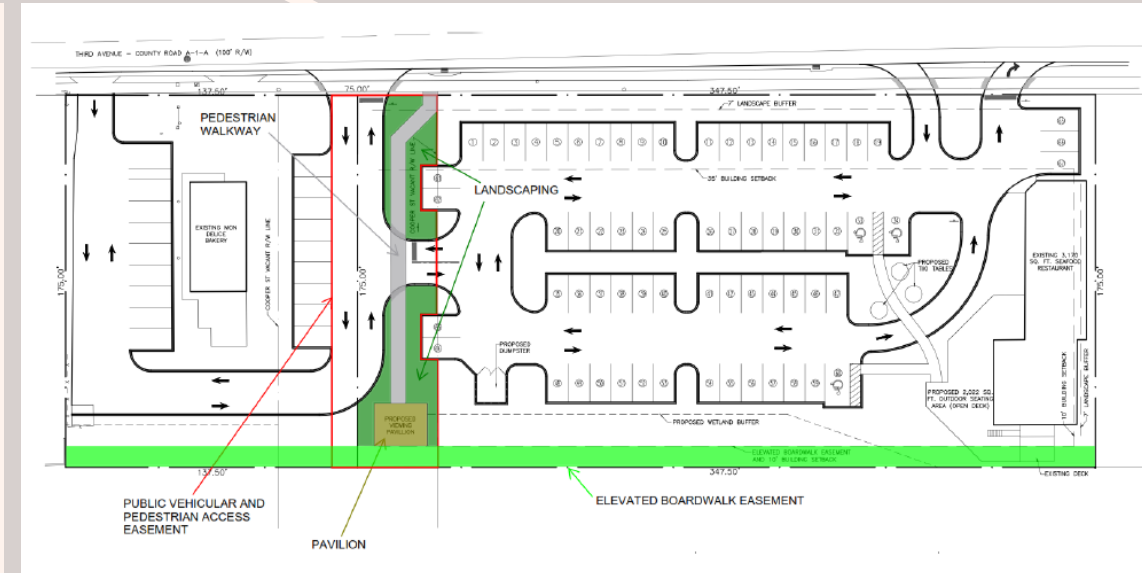
Applicant will build a public walkway from the sidewalk on 3rd Avenue to a pavilion overlook and agree to maintain said sidewalk and pavilion [September 27, 2023, letter to city providing for same not included staff report]

Applicant will provide an access easement along the south side of Applicants property for a future 3rd Avenue district boardwalk system. Applicant will cause Mon Delice parcel to continue said boardwalk easement. [5500+ sq. ft. of easement to City]

Vacation permits safer driveway access to 3rd Avenue at an intersection..

City does not lose potential public access to conservation areas, but vacation conditions provide for the construction of such public access to provide for actual public access

Provides potential for 3rd Avenue District Boardwalk system that could extend from Hyatt Place hotel to Saxon Boulevard trail



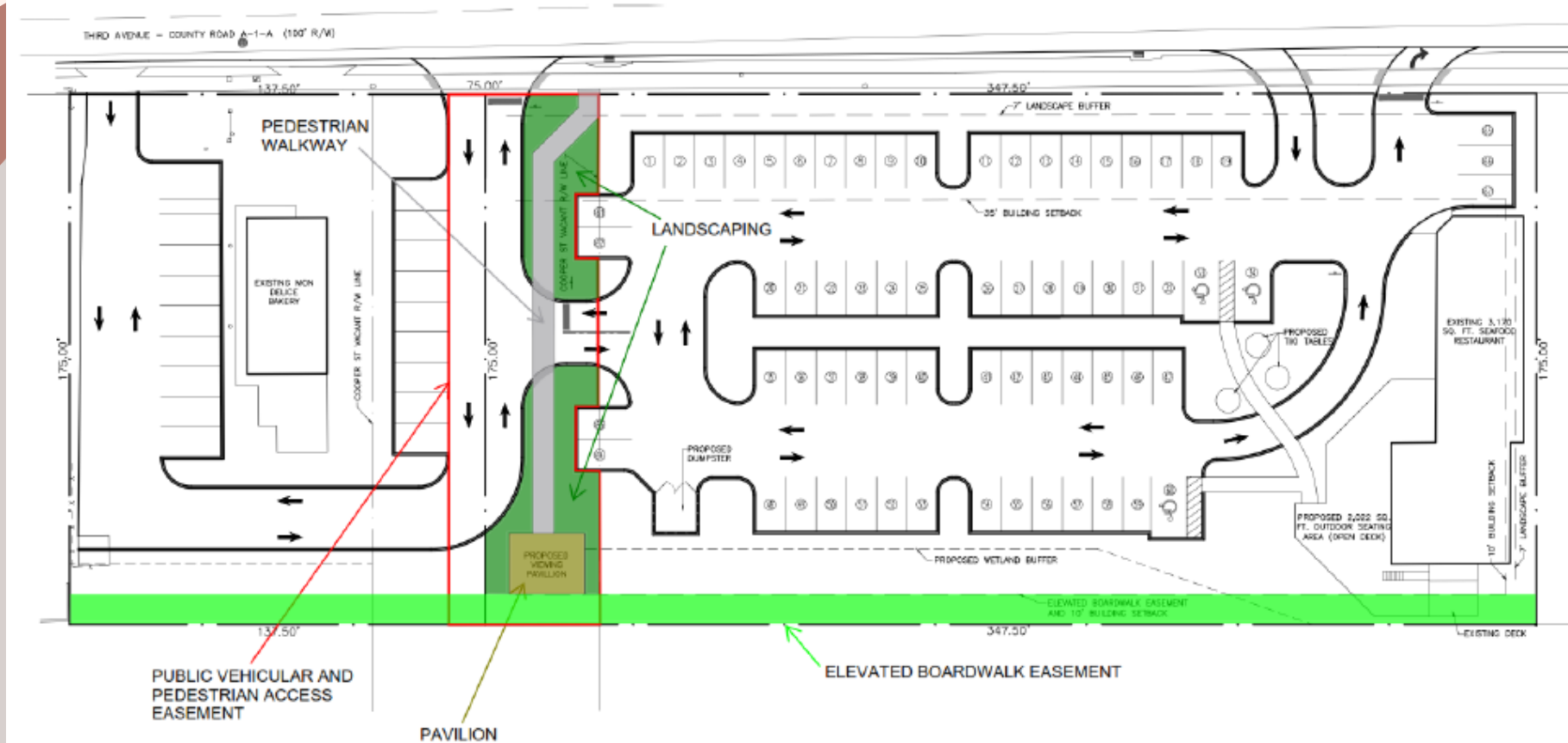
PROPOSED VACATION IS IN THE INTEREST OF THE PUBLIC GOOD

Proposed Vacation will maintain a public access easement over most of the vacated right of way to allow access to the wetland conservation areas and remainder of Cooper Street right of way.

Condition: Area outlined in red granted public access easement to ensure perpetual public access

Condition: Area in public access easement only used for improved and safer access, landscaping, public walkway, public observation pavilion

Parking spaces not within public access easement



PROPOSED VACATION IS IN THE INTEREST OF THE PUBLIC GOOD

Creates Walkway, Pavilion, Public Space for Bikers, Pedestrians

Applicant will build a public walkway from the sidewalk on 3rd Avenue to a pavilion overlook and agree to maintain said public walkway and pavilion.

Consistent with Chapter II, FLU, Goal 1, Objective 2, Policy d. -

Maintain a sense of community through the provision of public spaces and landscaping of parks, recreation areas and medians.

Per Staff: The area proposed for vacation is a currently undeveloped public property. While the North Causeway contains numerous public areas along its roadway, containing pavilions for bikers, pedestrians, etc., the South Causeway/ SR A1A / 3rd Avenue has no such provisions **at this time**, even though its volume of traffic is almost twice that of the North Causeway, and it serves as the primary gateway for most beachside visitors and residents.

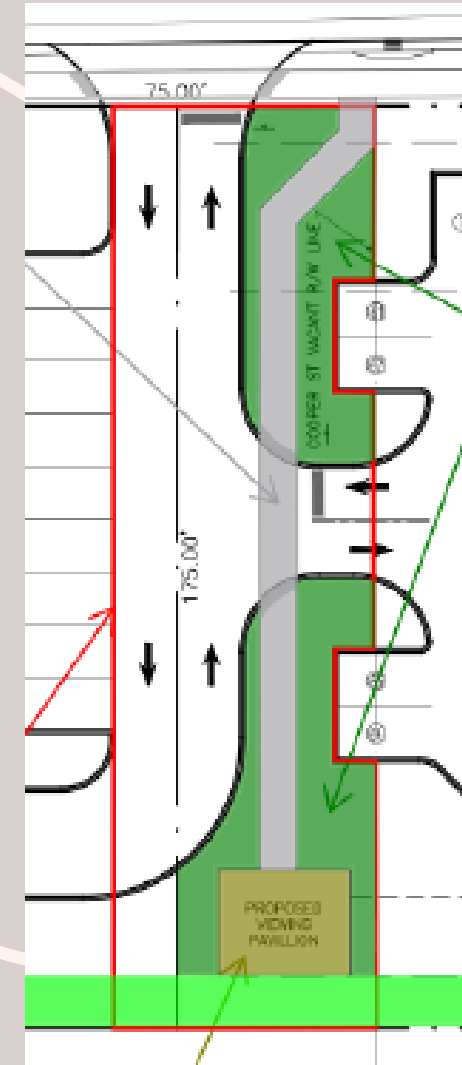
This vacation is conditioned upon providing for a walkway, pavilion, public spaces and landscaping of recreational area at no cost to public.

No cost for construction

No cost for maintenance

Begins to create an identity for South Causeway/SR A1A/ 3rd Avenue District and will tie into potential additional public areas.

South Causeway serves as gateway to most beachside visitors and residents and needs to provide for such public spaces



PROPOSED VACATION IS IN THE INTEREST OF THE PUBLIC GOOD

Dedicates Easement for Boardwalk Connection along Estuary

Applicant will dedicate an access easement along the south side of Applicants property for a future 3rd Avenue district boardwalk system to provide access to the waterfront estuary system.

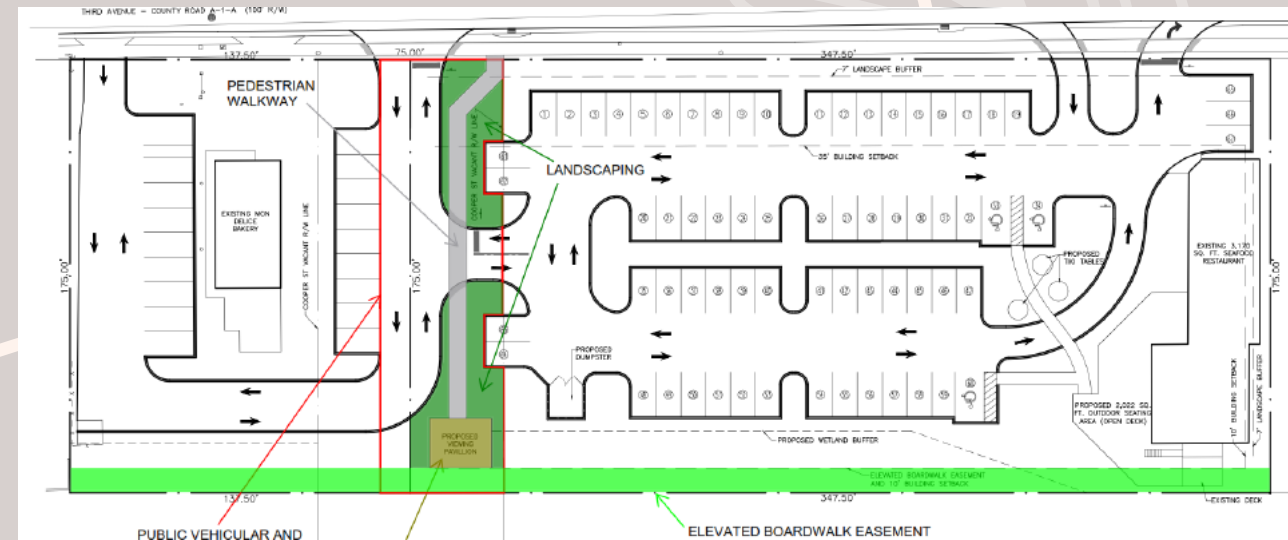
Applicant will cause Mon Delice parcel to continue said boardwalk easement.

Consistent with Chapter II, FLU, Goal 1, Objective 2, Policy d.

Maintain a sense of community through the provision of public spaces and landscaping of parks, recreation areas and medians.

Consistent with Chapter II, Flu, Goal 4, Policy e.

The City shall develop a plan to acquire properties with waterfront access for private and public redevelopment.



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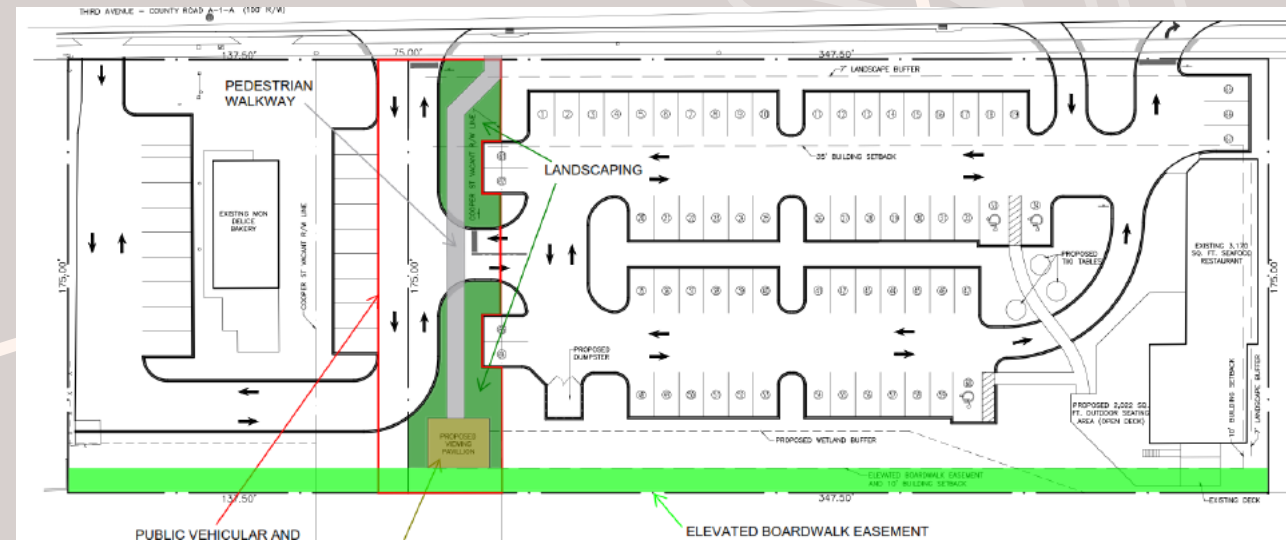
Applicant will cause Mon Delice parcel to continue said boardwalk easement.

Consistent with Chapter II, FLU, Goal 7, Objective 1, Policy f. Participate with the state and county in the acquisition/preservation of lands lying within the Indian River estuarine system.

Though not through the state or county, acquisition of easement provides for additional acquisition of land interest

Right of Way, as managed by City, contains invasive species and does not provide estuarine habitat. Per staff, there are no plans for improvement.

In the event partial right of way vacation and public benefit access and habitat appropriate landscaping is denied, this will continue to be a small strip of non-descript vegetation sandwiched between two commercial uses



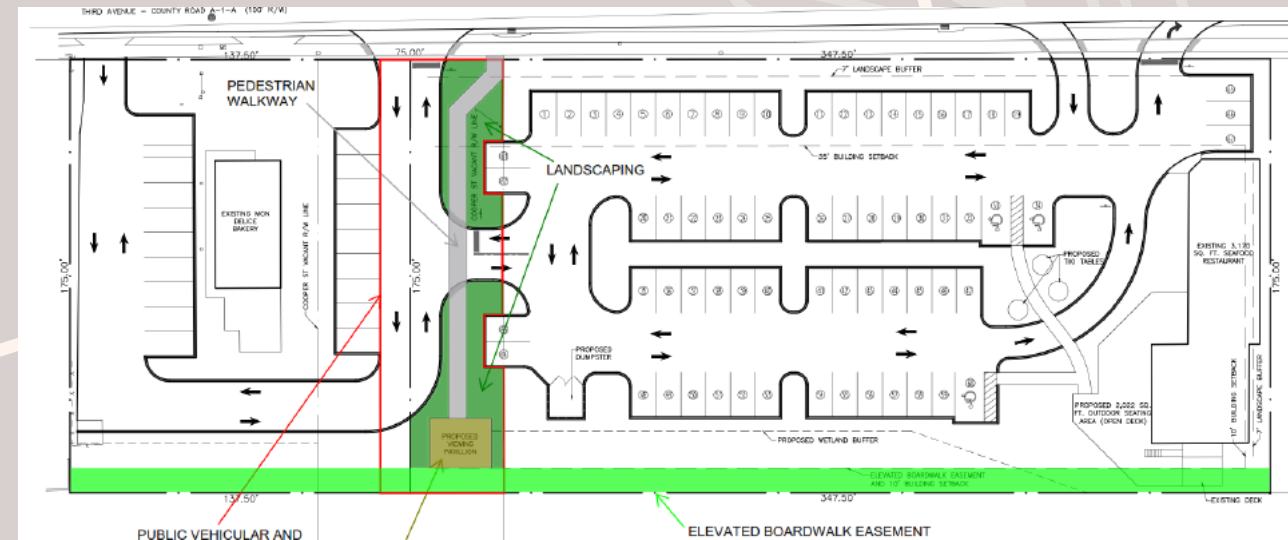
PROPOSED VACATION IS IN THE INTEREST OF THE PUBLIC GOOD

Dedicates Easement for Boardwalk Connection along Estuary

Provides potential for 3rd Avenue District Boardwalk system that could extend from Hyatt Place hotel to Saxon Boulevard trail

Provision for dedication of these two segments of easement would then allow for two more segments that could complete easement between Hotel site and Saxon Boulevard trail.

Construction of new restaurant without proposed partial vacation would prevent the use of any future walkway plan.



PROPOSED VACATION IS IN THE INTEREST OF THE PUBLIC GOOD

Vacation permits safer driveway access to 3rd Avenue at an intersection.

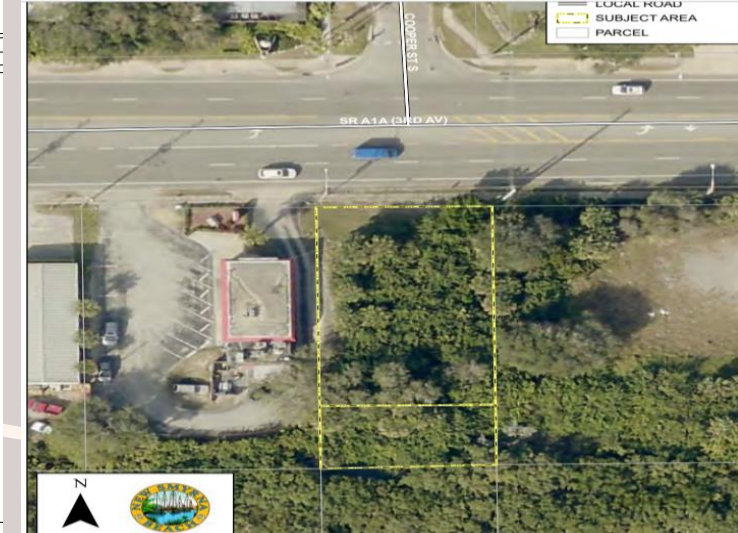
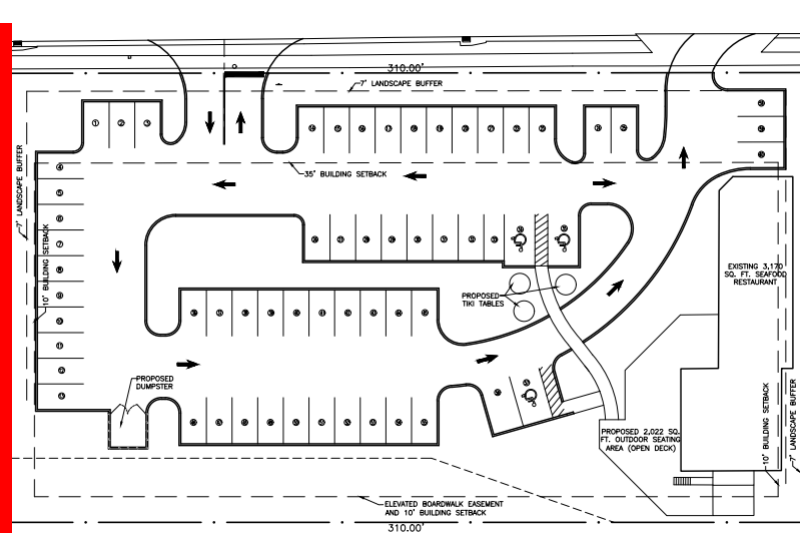
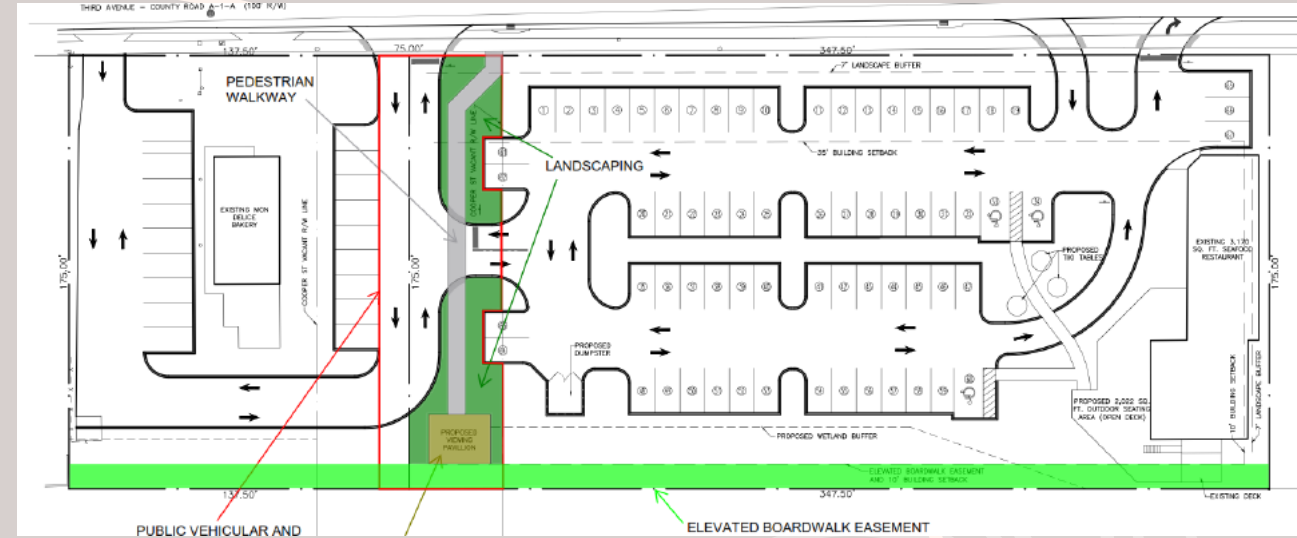
Consistent with Chapter II, FLU, Goal 1, Objective 3, Policy b.

Concentrating proposed commercial development around major roadway intersections.

Would allow for relocation of Mon Delice exit and relocation of Beach House Bar and Grill exit that is inconsistent with Cooper Street intersection into a single aligned entrance and exit.

Reduces two westbound exits on 3rd Avenue onto a single intersection across from Cooper Street.

Cooper Right of Way-



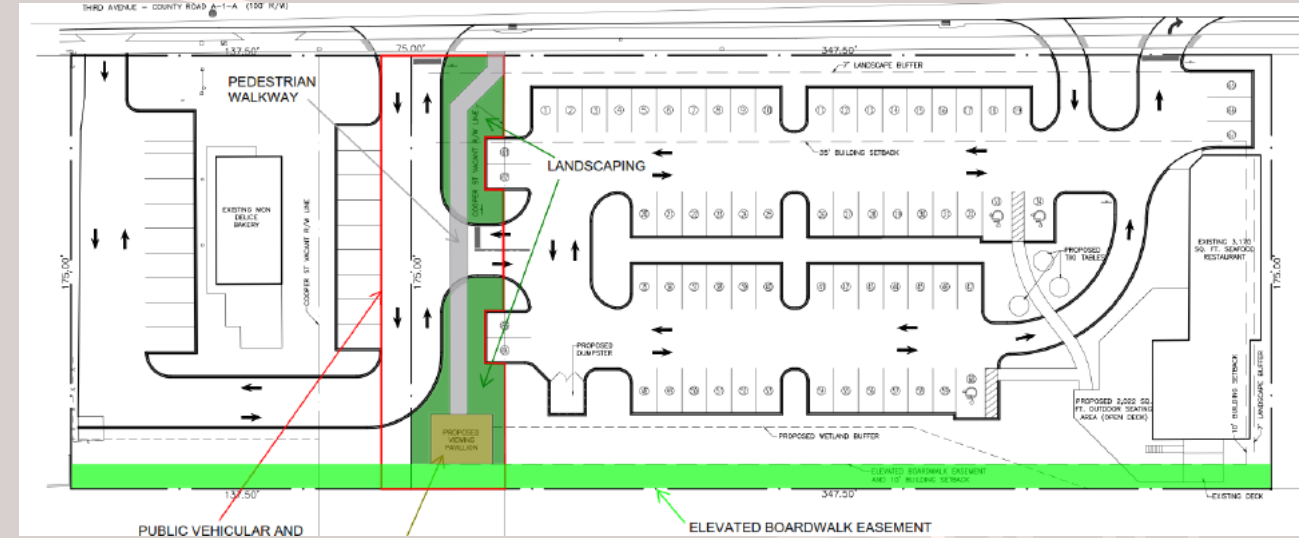
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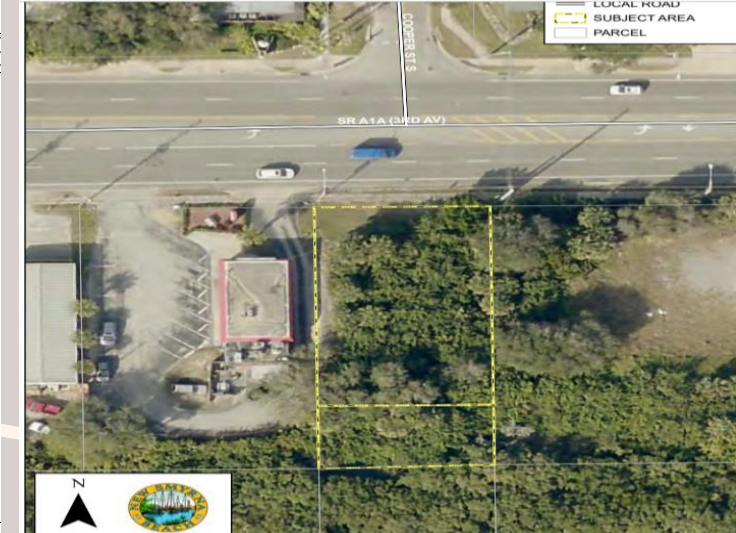
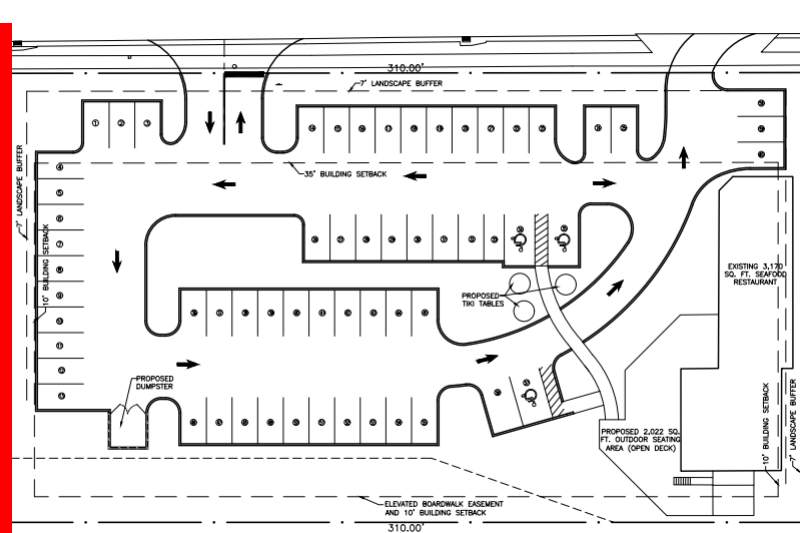
Consistent with Chapter II, FLU, Goal 1, Objective 3, Policy b.

Discourage proposals that increase of the frontage of existing commercial strips.

Would allow for relocation of Mon Delice exit and relocation of Beach House Bar and Grill exit that would provide for extensive landscaping and public walkway and pavilion along 3rd Avenue rather than emphasizing commercial strips and driveways. Denial does not decrease commercial.



Cooper Right of Way-



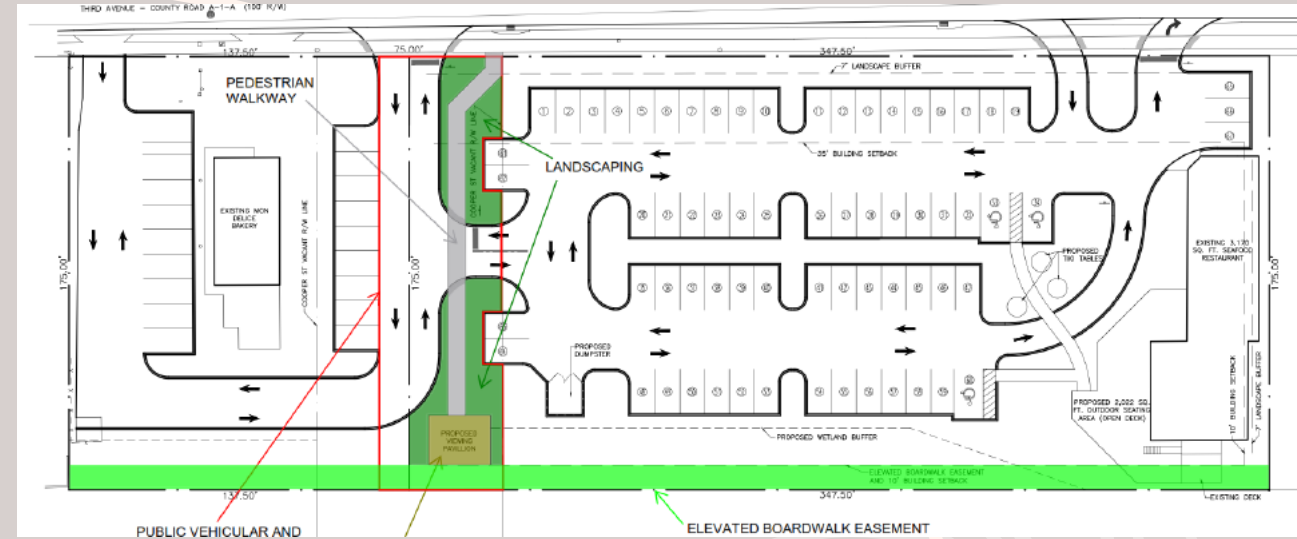
PROPOSED VACATION IS IN THE INTEREST OF THE PUBLIC GOOD

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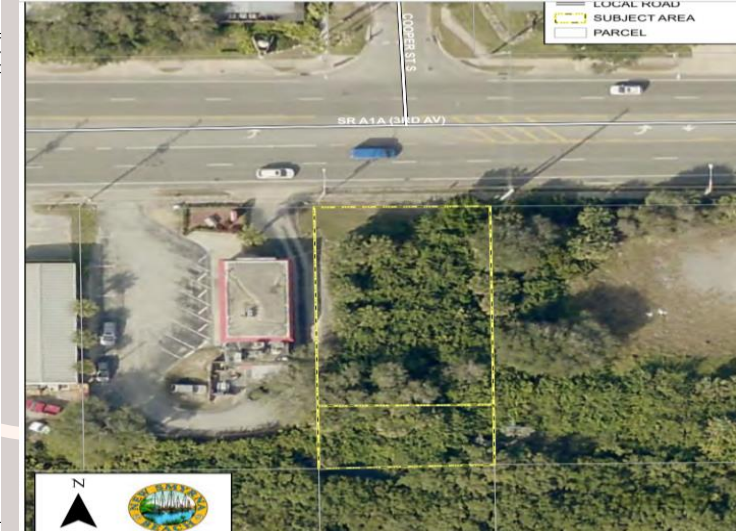
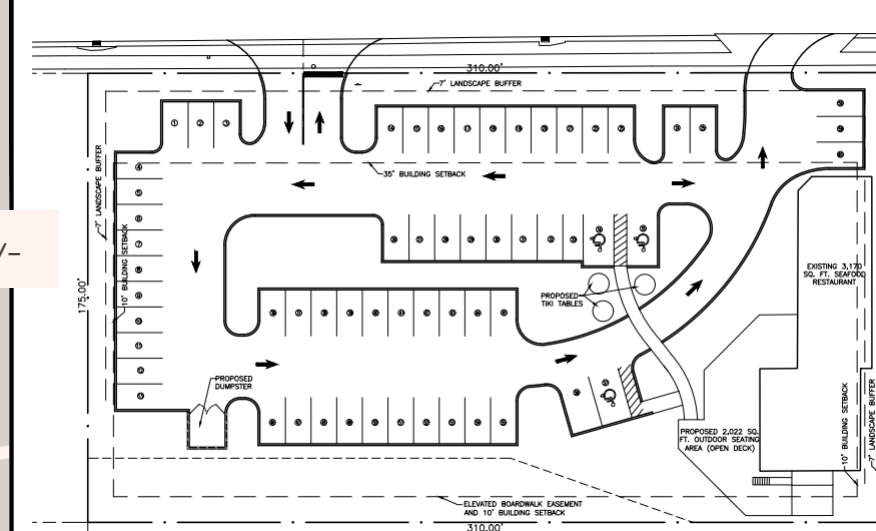
Condition of vacation: Area in red would be placed in an easement for public access

Condition of vacation: Require construction of public access and pavilion

Condition of vacation: Provide for the maintenance of public access and pavilion



Cooper Right of Way-



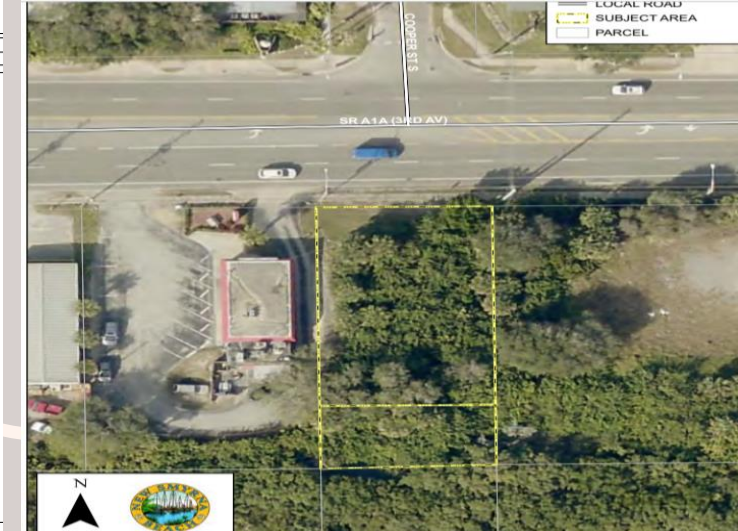
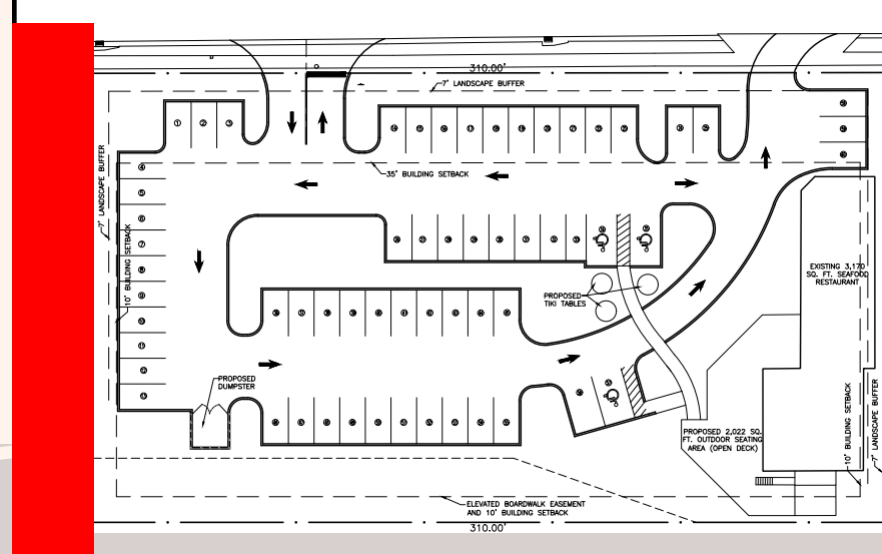
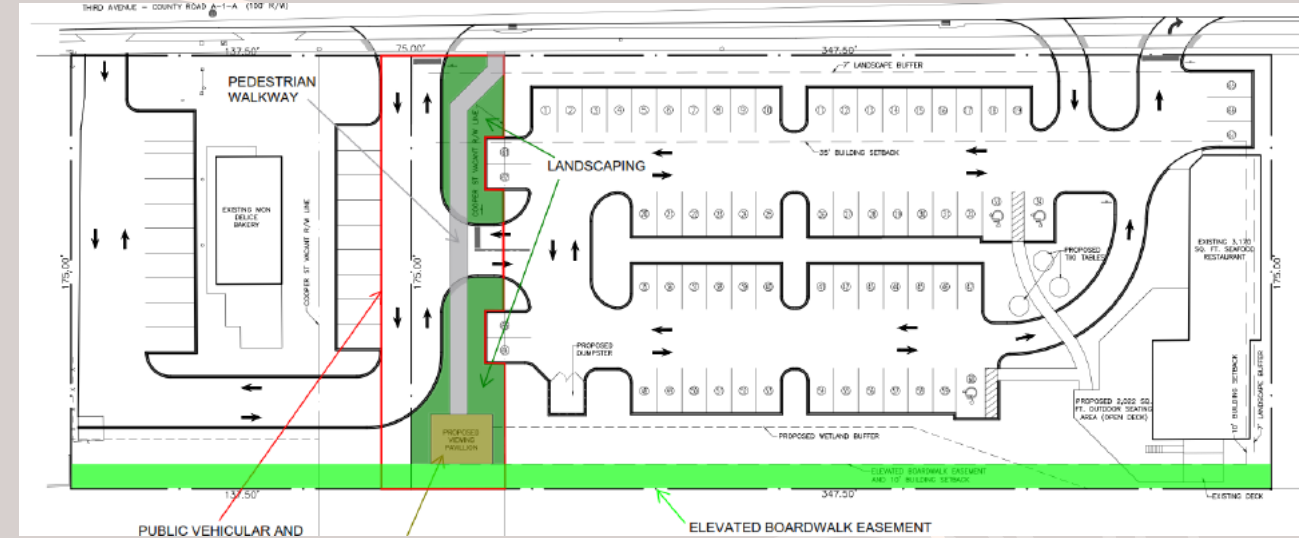
STAFF REPORT ISSUES

Staff report is factually incorrect and includes many contradictions.

Repeatedly emphasizes the need for potentially using the property for a public area with pavilions for the public yet does not recognize that the proposal will quickly create a public area with a pavilion at no cost to the public.

City has had the property for decades. The City approved the vacation of the property in 2015 to allow for redevelopment with a public access, because it met the criteria for a vacation. The redevelopment did not occur, and the right of way reverted to the City.

However, although staff apparently would like to see the City construct and maintain a public walkway and Pavilion, Staff Report clearly provides that the city has no plans for the property.



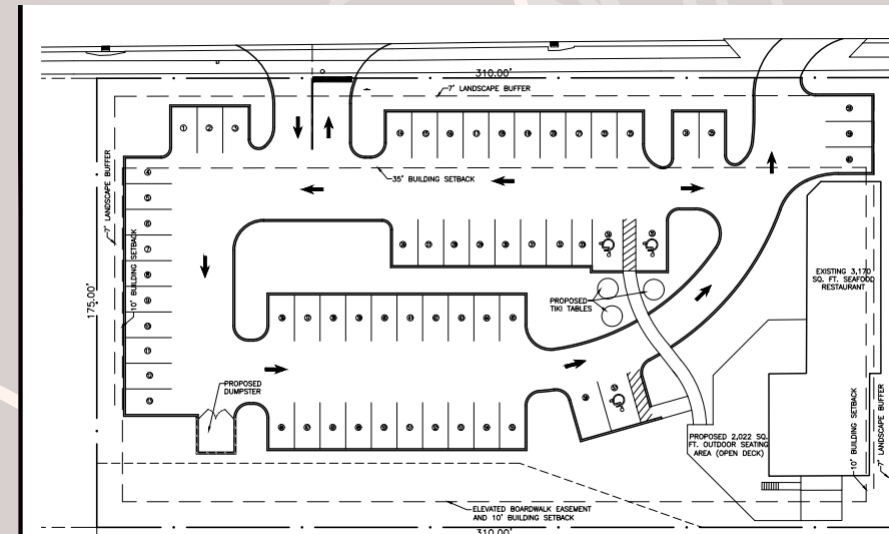
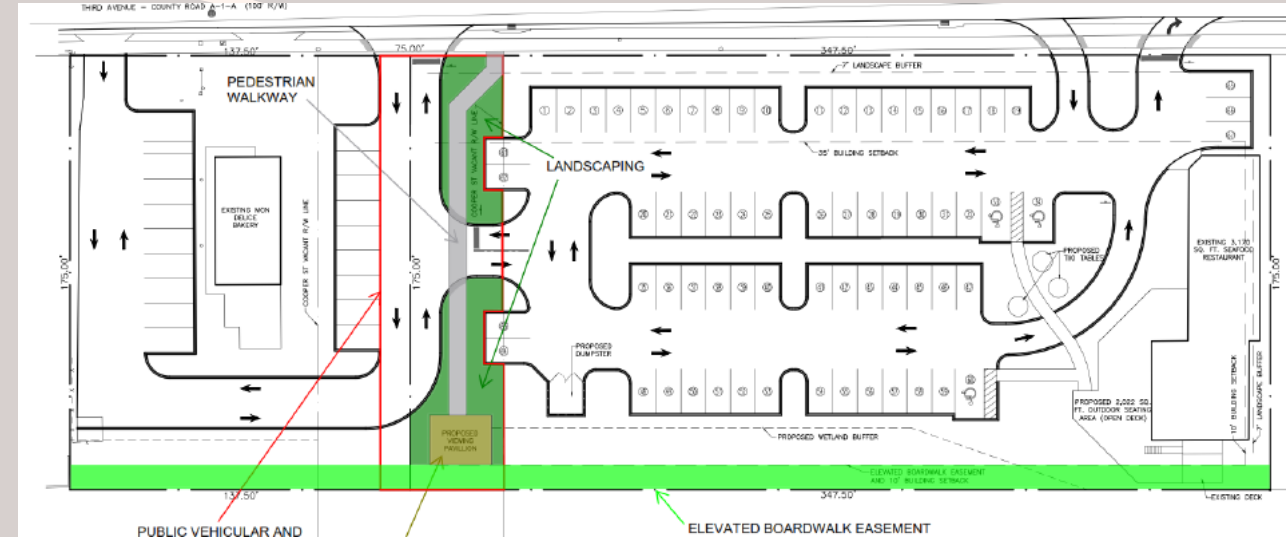
STAFF REPORT ISSUES

Staff report is factually incorrect and includes many contradictions.

Staff states in error: The request fails to provide any evidence that the request is in the public good and “there is no evidence that the vacation would be in the public good”

Staff unfairly ignores and does not discuss:

1. The cost of construction of the walkway, pavilion and public area.
2. The contribution of 5500+ square feet of additional public access along the estuary that could eventually permit a public walkway from Saxon to the hotel site.
3. The cost of maintenance of the walkway, pavilion and public area.
4. The provision of public access from 3rd Avenue and the contribution of public access, public space and waterfront access after decades of control by the City.



STAFF REPORT ISSUES

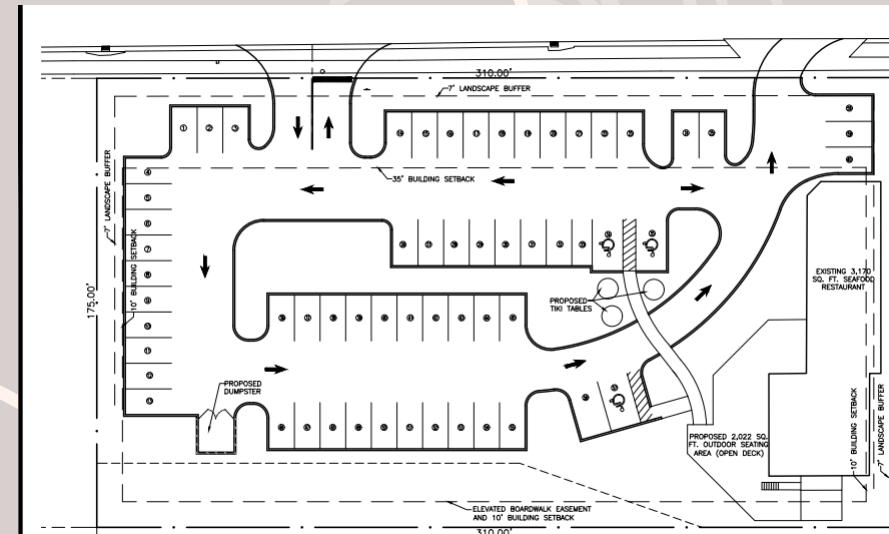
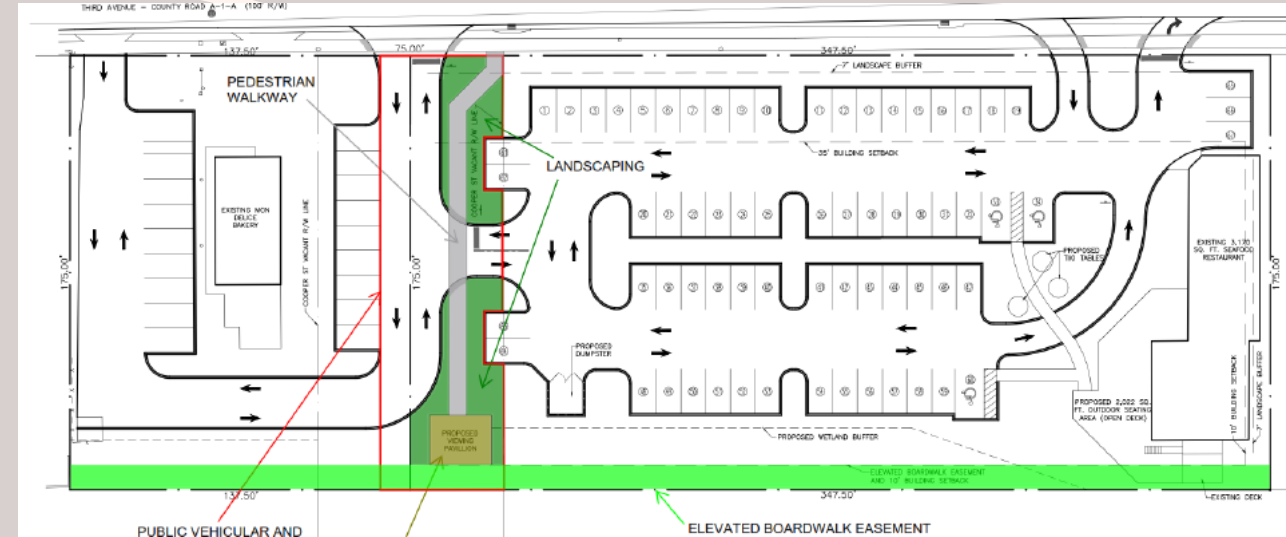
Staff report is factually incorrect and includes many contradictions.

Staff states in error: That the partial request for vacation would prevent access to the remnant right of way and would cause a reduction in value in this remnant parcel.

Staff ignores and does not discuss:

The majority of the vacated area is conditioned upon a public access easement that would provide access to the remnant [everything within red box as shown on proposed post vacation site plan]

Entire remnant parcel is within the estuary and there is no value for development other than potential boardwalk system that could be added to walkway and pavilion built as part of partial vacation request.



STAFF REPORT ISSUES

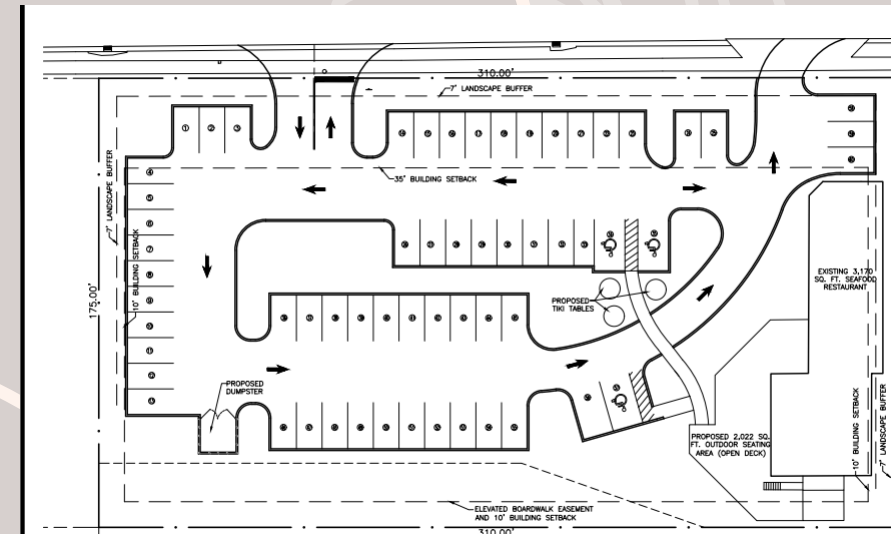
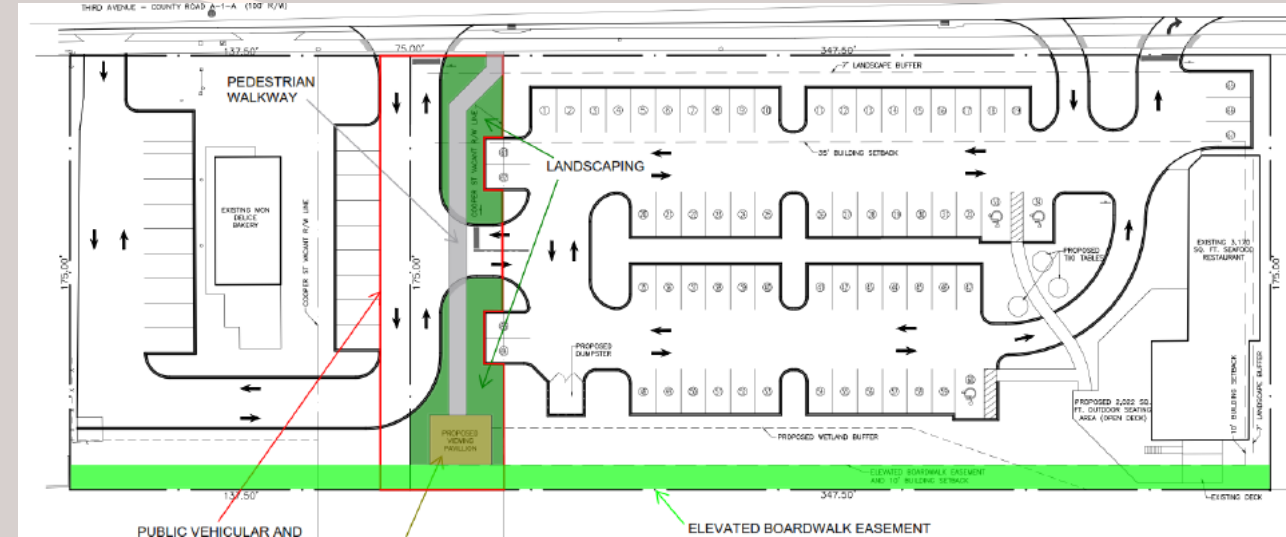
Staff report is factually incorrect and includes many contradictions.

Staff states in error: That proposed vacation is inconsistent with comprehensive plan.

In fact, staff has does not discuss conditions that provide for the public benefit and the partial vacation, with conditions, is consistent with all elements of comprehensive plan as previously provided as part of this presentation.

Provides for public space, does not increase commercial strips, provides for acquisition of waterfront, provides waterfront and scenic area access.

In many cases, staff recommendation, and prevention of partial vacation and construction of public access and pavilion is inconsistent with the comprehensive plan provisions.



STAFF REPORT ISSUES

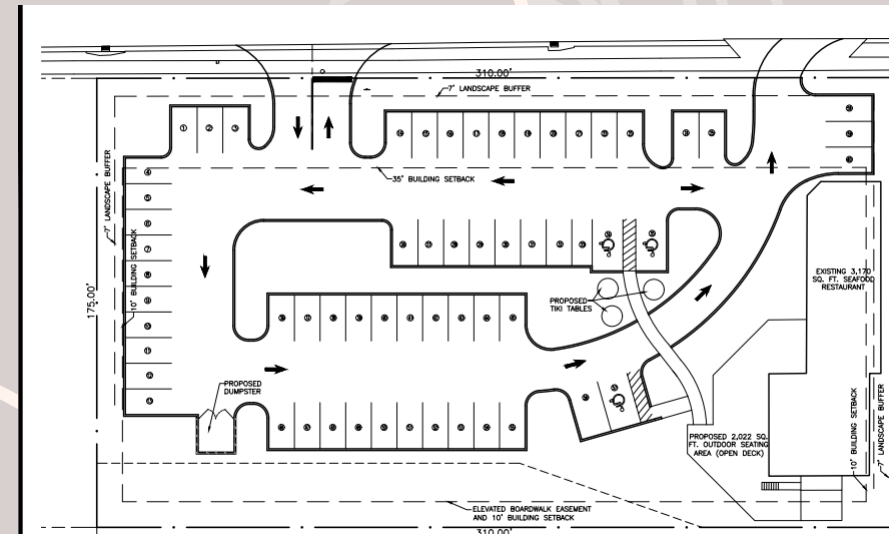
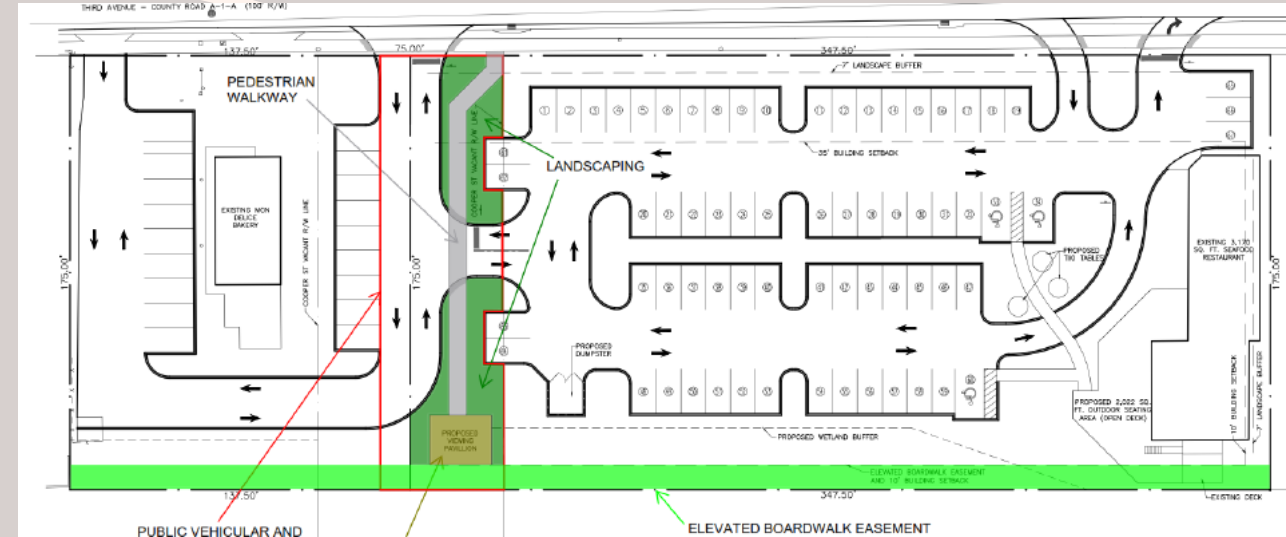
Staff report is factually incorrect and includes many contradictions.

Staff states in error: “It would seem that the proposed 75 x 175 vacation has more value than the pavilion being proposed”

Staff has no appraisals or basis for this conjecture.

If this property could be sold as a separate commercial parcel, with an additional access on 3rd Avenue and without any conditions or title restrictions, that may be the case. But this is a road right of way that connects to additional road right of way.

The actual value is considerably reduced if the only method to vacate the right of way requires the use of the property for public access and public space and if vacation incorporates parcel into adjoining parcels as is required by a vacation.



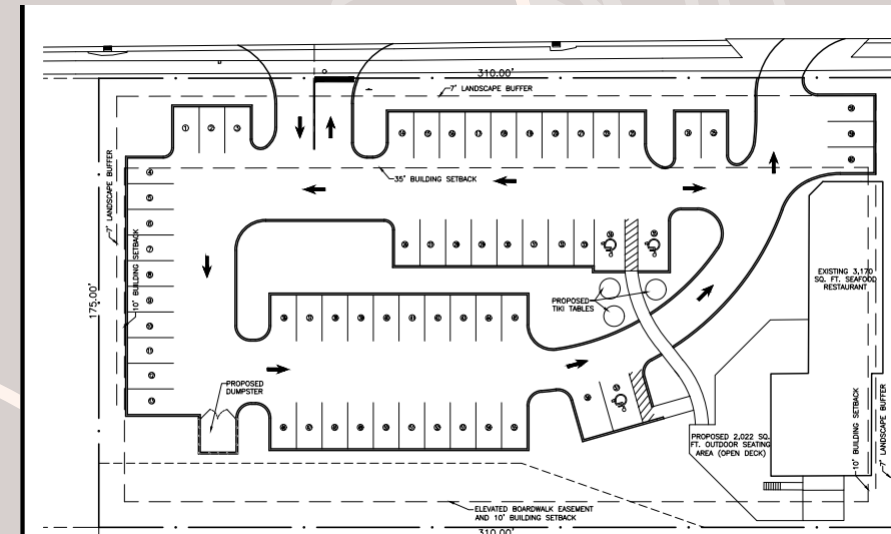
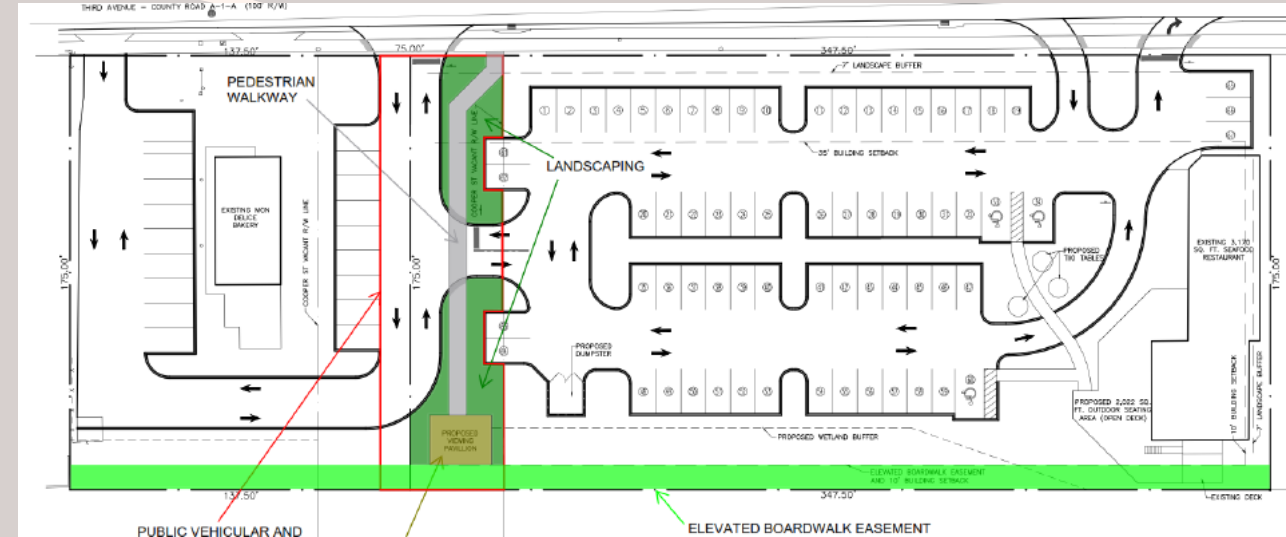
STAFF REPORT ISSUES

Staff report is factually incorrect and includes many contradictions.

Staff states in error: “Application seeks to ... vacate a currently owned public property with possible waterfront access ... *at no cost to the recipients...*”

Again, proposed partial vacation is conditioned upon requirements for contribution of significant costs:

1. Construction of walkway, public access and pavilion: Estimated costs for same, including landscaping and permitting are in excess of \$100,000-\$200,000.
2. Maintenance of Public Access and structures also have significant costs [est. \$10,000 per year]
3. Contribution of approximately 5500 sq. ft. of estuary frontage access easement with commercial value.
4. Even with all the public access and amenities, property is added to the tax rolls. Presently no taxes are paid on parcel.



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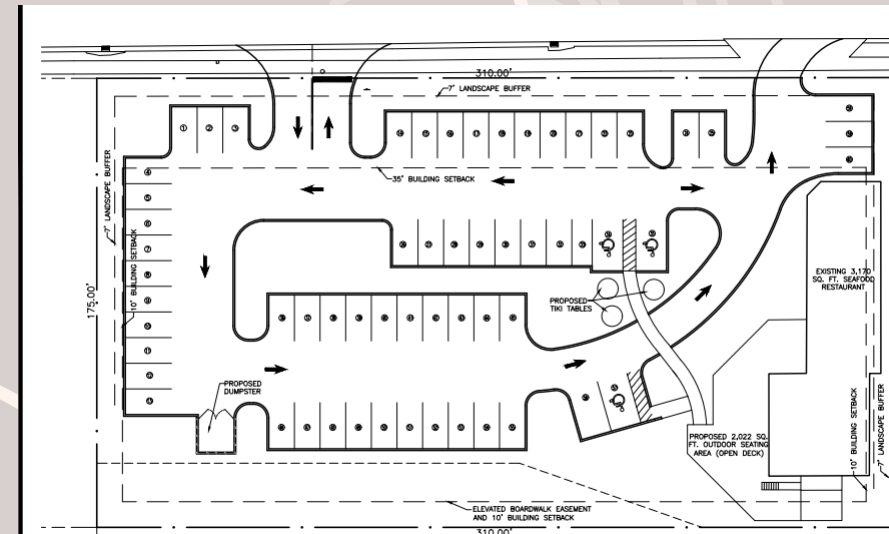
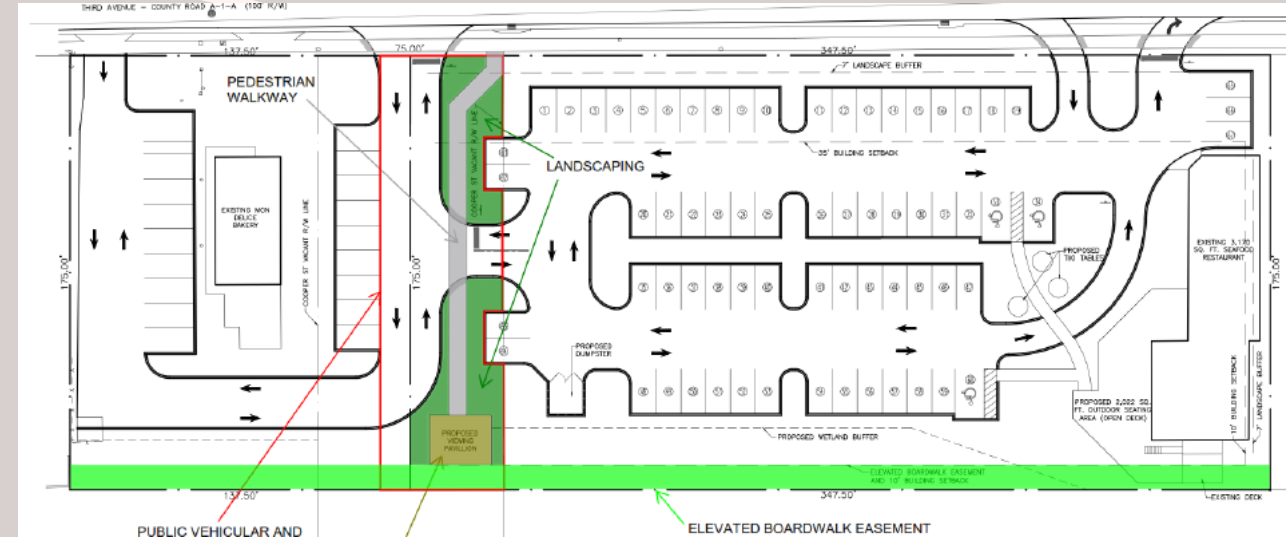
Staff states in error: The sole reason for this request is to benefit the applicant or adjoining property owners.

Staff knows that traffic configuration and joint access with adjoining parcel across from Cooper Street provides for safer traffic management and DOT prefers this configuration.

Staff ignores the Beach House Bar and Grill project, which can and will be developed with the same commercial frontage and but without the cost of construction of the walkway, pavilion, public area or dedication of the estuary walkway easement.

Partial vacation does allow better planning and approximately 4 additional parking spaces more that required under LDC.

Applicant recognizes this is an opportunity to plan for the 3rd Avenue district, provide for safer traffic management and additional landscaping along 3rd Avenue.



CONCLUSION

Proposed partial vacation area is unused and is not planned for any public use.

Proposed partial vacation is in the interest of the public good:

1. Proposed partial vacation is conditioned upon maintaining perpetual public access and use, builds actual public access walkway and pavilion as desired by staff and provides for public access along the entire estuary.
2. Proposed partial vacation permits safer traffic management
3. Proposed partial vacation with conditions help create a 3rd Avenue District walkway system and identity for 3rd Avenue District.

Extensive evidence has been presented in the public record that the proposed partial vacation is in the interest of the public good.

Clearly, there is no evidence that the vacation is for the sole benefit for the Applicant.

There is significant public benefits and Applicant could build a restaurant without partial vacation and without public benefit.

REQUEST FOR PARTIAL VACATION MEETS ALL CRITERIA

